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MAILED

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OFFICE OF PETITIONS

In re Patent No. 7,491,722 : DECISION ON REQUEST  
Dal Piaz et al. : FOR  
Issue Date: February 17, 2009: RECONSIDERATION OF  
Application No. 10/539,821 : PATENT TERM ADJUSTMENT  
Filed: December 14, 2005 : and  
Atty Docket No. 09605.0011 : NOTICE OF INTENT TO ISSUE  
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on April 9, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by two hundred eighty-two (282) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **four hundred fifty-two (452)** days.

The "B" delay period is 235 days, not 65 days. Patentee calculated this period based on the date this application fulfilled the requirements of 35 U.S.C. 371, December 14, 2005. However, in an international application, this period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f). See 1.702(b). In this instance, the national stage commencement date is Monday, June 27, 2005. The priority date of this application is December 26, 2002. As the requirements for early commencement were not met, the national stage

commenced in this application at the end of the thirty-month period. As the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on a Sunday, the period expired on the subsequent business day. See PCT Rule 80.5. Accordingly, the commencement date is Monday, June 27, 2005. Thus, "B" delay is 235 days, counting the number of days beginning on June 28, 2008 and ending on February 17, 2009, the date of issuance. See 1.703(b). Considering the overlap of 9 days, the patent term adjustment is increased by 226 days to 452 days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by four hundred fifty-two **(452)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 7,491,722 B2

DATED : February 17, 2009

DRAFT

INVENTOR(S) : Del Piaz et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 226 days

Delete the phrase "by 226 days" and insert – by 452 days--